

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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U.S. DEPARTMENT OF JUSTICE

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In the Matter of)

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Federal-State Joint Board)
on Universal Service)
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CC Docket No. 96-45

COMMENTS OF AT&T CORP.

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SUMMARY

The Telecommunications Act's goal of promoting local competition while advancing universal service requires the Commission to make a fundamental paradigm shift in providing for universal service. As shown in Part I, universal service today is promoted through cross-subsidies from excessive access charges paid by IXC's to incumbent monopoly LECs. To comply with the Act, on a going-forward basis, all universal service subsidies must be divorced from access charges and all telecommunications service providers must make an equitable and nondiscriminatory contribution to universal service support. Indeed, if the local competition that is the core promise of the Act is to be realized, the price of all forms of access must be set at total service long-run incremental cost or "TSLRIC" to avoid permitting incumbent LECs to discriminate against potential new entrants and to cross-subsidize competitive services with noncompetitive access offerings.

In the instant Section 254 proceeding, the current system of subsidies needs to be reformed and replaced by a single New Universal Service Fund ("NUSF") with competitively neutral funding. This could readily be provided through a surcharge on the retail services of all telecommunications service providers, whether providing interstate or intrastate service. Such a recovery mechanism is fair, simple and efficient, and fully comports with the Act's requirement that support be "explicit."

With the exception of subsidies flowing to small rural telephone companies, all subsidies must be "portable" with the end user customer, to ensure compliance with the Act's nondiscrimination requirement. If the new regime is structured in this manner -- i.e., portable, explicit and funded in a competitively neutral manner -- NUSF subsidies will provide a source of funding to allow appropriate contribution to residential local service costs by all telecommunications services and for the benefit of all customers of that service. It will thus encourage local market entry, while ensuring the availability and affordability of local service to all consumers regardless of location.

Part II shows that universal service subsidies should be available to support a core set of essential services, consisting primarily of voice grade dial tone, touch tone, residential single party service, access to 911, operator, 411, local usage in a limited calling area, equal access to long distance service, and local number portability. The subsidy should be available for the primary line to a subscriber's principal residence, irrespective of the technology employed. The set of services needed to achieve universal service could "evolve" over time, based on the operation of market choices by consumers.

To implement the Act's directive that services should be available at "affordable rates" and that "low-income consumers and those in rural, insular and high cost

areas" be able to obtain service at rates reasonably comparable to those for similar services in urban areas, the Joint Board should define what constitutes an "affordable rate" for consumers in all Tier 1 LEC areas. In so doing, the Joint Board should presume that the existing local rate for the group of core services described above, as augmented by an increased SLC that recovers fully the subscriber loop portion of the interstate common line, is affordable for all subscribers, except those qualifying for low-income assistance, and then use the weighted average of those rates (including the increased SLC) as the "nationwide affordable rate." To the extent that the TSLRIC (as determined by the relevant cost proxy model) of providing the core set of services exceeds that level, the LEC or ALEC serving the customer should be able to receive national NUSF subsidy support for the difference (between TSLRIC and the nationwide affordable rate). Supplemental state-funded programs should also be permitted, so long as they are competitively neutral.

Low-income consumers would continue to qualify for need-based support from the Lifeline Assistance and Link-Up Programs, which should be funded by the NUSF. To qualify for such assistance, a subscriber should be required to meet minimum verifiable eligibility standards established by the state commission for each jurisdiction. Carriers would also be entitled to reimbursement from the NUSF for special discounts they offer for "telecommunications services" to qualifying schools, libraries and health care providers.

As shown in Part III, the Commission should specify that for a carrier to be eligible for NUSF subsidy, it must provide the core services identified above as a basic stand-alone offering, either by using its own facilities, using another carrier's unbundled network elements (paying the full TSLRIC), or by any combination of such facilities and elements. Finally, the Commission should select a neutral organization not affiliated with any telecommunications carrier to administer the NUSF.

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COMMENTS OF AT&T CORP.

Pursuant to the Commission's March 8, 1996 Notice of Proposed Rulemaking and Order Establishing a Joint Board, FCC 96-93 ("NPRM"), AT&T submits these comments on the implementation of the universal service provisions of the Telecommunications Act of 1996 ("Act").¹

I. THE TELECOMMUNICATIONS ACT'S GOAL OF PROMOTING LOCAL COMPETITION WHILE ADVANCING UNIVERSAL SERVICE REQUIRES A FUNDAMENTAL PARADIGM SHIFT IN PROVIDING FOR UNIVERSAL SERVICE.

AT&T strongly supports the Act's objective of ensuring universal service for all residential consumers at reasonable rates and believes that this goal will be more efficiently and fully realized with the advent of local competition. The key public policy issue confronting the

¹ P.L. 104-104, 110 Stat. 56 (1996), to be codified as 47 U.S.C. §§ 254 and 214(e). The Commission extended the time for filing comments on the NPRM until April 12, 1996. See Order, DA 96-483, released April 1, 1996.

Commission and the Joint Board in this proceeding is how to redesign the existing system of universal service subsidies so that it no longer impedes competition, and thereby make it consistent with the Act's overriding objective of "opening all telecommunications markets to competition."²

There is no doubt that the current system of funding universal service is fundamentally flawed and has allowed access charges to remain at levels far greater than necessary to support a properly targeted universal service support regime. Much of what has been alleged to be a subsidy is unnecessary because retail local service rates already recover efficiently incurred costs. By providing funding beyond what is required to sustain universal service, the existing system not only encourages, and indeed rewards, inefficiency, but it is profoundly anticompetitive. The excessive contribution built into supracompetitive access charges deters entry of more efficient competitors into local exchange markets and thus denies consumers the benefits of lower prices and innovative services that competition would surely bring. The excessive returns generated by today's access rates also produce grave risks to competition in toll markets -- including price squeeze and predatory pricing -- to the extent that monopoly access

² See S. Conf. Rep. No. 104-230, 104 Cong. 2d Sess. 1 (1996).

providers integrate into those markets. A policy that promotes both the development of competition and the preservation of universal service is certainly attainable, but it requires a fundamental shift in providing for universal service.

Today, universal service is promoted through a set of broad-based cross-subsidies that flow principally to incumbent monopoly local exchange carriers ("LECs") without any demonstration of need, and without regard to whether they accomplish the intended objective. Many cross-subsidies are funded by the LECs' access charges, which are set substantially above cost, allegedly in order to subsidize rates for the LECs' basic local telephone service. Some of these cross-subsidies are built directly into the access charge structure,³ whereas others, such as the Universal Service Fund ("USF") and Lifeline Assistance Program, have the effect of raising interexchange carrier ("IXC") toll prices by imposing an additional charge on IXCs per presubscribed line. The Act clearly applies to the full range of universal service support mechanisms.⁴

³ These include the Carrier Common Line Charge ("CCLC"), Long Term Support ("LTS"), the Residual Interconnection Charge ("RIC"), and DEM Weighting.

⁴ Although not all of the support streams embedded in or related to access bear the name "universal service," they are all designed to promote universal service in one way or another, and thus are subject to the Act. §§ 254(a)(1), (c)(1), (c)(2), 214(e)(1).

Divorcing all of these subsidies from access charges is essential to comply with the Act's mandate that "all providers of telecommunications services . . . make an equitable and nondiscriminatory contribution to the preservation and advancement of universal service."⁵ To the extent any subsidy is tied to the purchase of LEC switched access, the only carriers required to contribute are those who purchase such access, while others are improperly relieved of their statutory obligation to do so.

Cost-based pricing is also essential to fulfilling the Act's nondiscrimination requirement. To the extent any subsidy mechanism makes the price of access deviate from the

⁵ § 254(b)(4) (emphasis added); NPRM, ¶¶ 28-30; 61-65; 112-115. As AT&T has previously shown, the CCLC, LTS, RIC and DEM Weighting must be eliminated and the USF must be restructured, so that all of these universal service-related subsidies, if needed, are recovered in a competitively neutral manner. See AT&T's Comments and Reply Comments in CC Docket No. 80-286, filed October 10, 1995 and November 9, 1995. The Commission should also include the funding of Lifeline Assistance as part of the instant rulemaking on comprehensive subsidy reform (as permitted although not required under § 254(j) of the Act), otherwise the new regime will continue to suffer from much of the fragmentation, administrative complexity, and inconsistencies inherent in today's alphabet soup of separate subsidies. See also n.13, infra.

Pending implementation of the new universal service support regime, the Commission should at a minimum extend the existing interim cap on the USF through July 1, 1997, to avoid significant erratic growth in the USF and possible disruptions to a smooth transition. See Amendment of Part 36 of the Commission's Rules and Establishment of a Joint Board, Report and Order, FCC 95-494, released December 12, 1995; NPRM, ¶ 40.

access provider's long-run incremental cost (as measured by total service long-run incremental cost or "TSLRIC"), it permits the incumbent LEC to discriminate against its potential rivals in local markets and also against IXC's if the LEC is permitted to offer long distance service.⁶ To foster competition all subsidies must be eliminated and access must be set at efficient, cost-based prices. Simply put, artificially inflated access rates flunk § 254(b)'s nondiscrimination requirement and run afoul of § 254(k)'s express prohibition against carriers using "services that are not competitive to subsidize services that are subject to competition."⁷

⁶ First, allowing an incumbent LEC to subsidize exchange service out of its access revenues creates discrimination against its potential alternative LEC ("ALEC") competitors. As the Commission has already recognized, access-based subsidy mechanisms "could significantly affect the development and viability of competition in local telecommunications services" because they "may serve as barriers to entry by competing service providers." Amendment of Part 36 of the Commission's Rules and Establishment of a Joint Board, 9 FCC Rcd. 7404 (¶ 16) (1994) ("NOI"); NPRM, ¶¶ 28, 113-115. Second, inflated access rates, to the extent that they are not used to subsidize universal service, constitute a serious threat to interexchange competition if the incumbent LEC is allowed to offer long distance services because it can engage in a classic "price squeeze" -- by charging competitors more for the monopoly components of retail service than it costs to produce them, the incumbent LECs could foreclose retail competition.

⁷ Even the LECs recognize that fair competition requires elimination of the current system of access cross-subsidies. Ameritech Operating Companies (Petition for a Declaratory Ruling and Related Waivers to Establish a New Regulatory Model for the Ameritech Region), Order, FCC 96-58, released February 15, 1996; NYNEX Telephone

For all these reasons, the creation of a competitive environment requires that all cross-subsidies be eliminated from access prices and that, in the six-month proceeding required by Section 251 of the Act, the Commission mandate that all forms of access be priced at TSLRIC rates. As the Commission recently observed, "[e]conomists generally agree that prices based on LRIC reflect the true economic cost of a service and give appropriate signals to producers and consumers and ensure efficient entry and utilization of the telecommunications infrastructure."⁸ TSLRIC pricing more nearly allows bottleneck local exchange markets to mimic competitive markets, thereby permitting all carriers, including incumbents, to compete efficiently, as contemplated by the Act.

The Commission should require use of the same TSLRIC standard both for pricing access and interconnection

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Companies Petition for Waiver - Transition Plan to Preserve Universal Service in a Competitive Environment, 10 FCC Rcd. 7445 (1995). See also, e.g., Pacific Telesis Ex Parte Letter, February 29, 1996, CC Docket No. 80-286.

⁸ Interconnection Between Local Exchange Carriers and Commercial Mobile Radio Service Providers; Equal Access and Interconnection Obligations Pertaining to Commercial Mobile Radio Service Providers, Notice of Proposed Rulemaking, CC Docket No. 95-185, FCC 95-505, released January 11, 1996, at ¶ 47 ("CMRS/LEC Interconnection NPRM").

under § 252(d)(1) of the Act, and as the basis for the identification of universal services subsidies. Using TSLRIC as the economic standard, the Commission will find that the amount of current access revenues above TSLRIC is more than necessary to support universal service. If the excess contributions related to inefficiencies and supracompetitive profits applied other than to universal service preservation are eliminated and the new universal service obligation properly sized -- and these must be the Commission's and Joint Board's key objectives -- consumers will realize a substantial net benefit by a reduction in their total bill for telecommunications services.

To achieve these goals, the price of access must be set at TSLRIC, and, in the instant 15-month proceeding required by Section 254 of the Act, the current system of subsidies needs to be reformed and replaced by a single New Universal Service Fund ("NUSF") with competitively neutral funding. AT&T proposes that this be accomplished by a surcharge on the retail services of all telecommunications service providers, including IXC's, LEC's, ALEC's, wireless carriers, resellers, and anyone else providing telecommunications services. Preliminarily, such a surcharge should not be viewed as a rate increase for consumers. To the contrary, as when the subscriber line charge ("SLC") was introduced in 1985, AT&T anticipates that consumers will reap immediate benefits in lower overall telecommunications prices. A surcharge will not only permit

substantial reductions in access rates and prices for unbundled network elements to be passed along to customers, it will also foster greater efficiency and new entry that will further drive prices lower.

A surcharge on all retail telecommunications services, both interstate and intrastate, creates a fair, simple and efficient recovery mechanism.⁹ First, it ensures that all subscribers make a fair and equitable contribution on exactly the same basis -- all retail revenues.¹⁰ Second,

⁹ NPRM, ¶¶ 118-126. The Act plainly authorizes -- indeed, contemplates -- this kind of non-jurisdictional universal contribution scheme. Section 254(d) of the Act gives the FCC authority to collect subsidy-related contributions from providers of interstate services, while § 254(f) gives the states corresponding authority to collect such contributions from providers of intrastate services. And, § 254(b)(4) gives the Joint Board and the FCC broad authority to establish contribution obligations applicable to "all providers of telecommunications services." (emphasis added).

¹⁰ In recent years, the Commission has increasingly prescribed revenue-based methodologies to allocate funding obligations, in recognition that such mechanisms best satisfy the goals of competitive neutrality. See Assessment and Collection of Regulatory Fees for Fiscal Year 1995, 10 FCC Rcd. 13512 (1995) (prescribing revenue-based allocation of regulatory fees); Telecommunications Relay Services, and the Americans with Disabilities Act of 1990, 8 FCC Rcd. 5300 (1993) (adopting revenue-based allocation of TRS funding obligations).

All subscribers, including those that would make only de minimis contributions, should be required to contribute to the NUSF. NPRM, ¶ 120. Moreover, to avoid any double count, resellers would certify the portion of the telecommunications services that they purchased which are used for resale and apply to the NUSF administrator for a surcharge credit for these exempted purchases.

it also ensures that high-volume users, who derive the greatest benefit from the network, bear a proportionate share of the universal service obligation.¹¹ Third, it obviates altogether the potentially difficult problems associated with having to make jurisdictional determinations. NPRM, ¶ 125. In keeping with § 254(e)'s requirement that all universal service support be "explicit," regulators must be able to easily identify the surcharge apart from the service provider's rates -- a procedure that will have the added benefit of enabling regulators to prevent the subsidy from spinning out of control in the future. NPRM, ¶ 28.

Further, with the exception of subsidies flowing to small rural carriers, all subsidies must follow the customer, not the carrier, to ensure compliance with the nondiscrimination requirement of § 254(b)(4) and to encourage new local entry.¹² As the Commission has

¹¹ Because, unlike customers of other services, wireless customers pay for both placing and receiving calls, the surcharge on bills to wireless customers should apply only to basic service and revenues associated with originating calls.

¹² At least at the outset, small rural carriers can appropriately be exempted from the portability requirement because the administrative costs of portability could outweigh the benefits. Once a state commission determines that it is in the public interest for a rural carrier to interconnect with new entrants in their territory per § 251(f)(1)(B), then the subsidy should also become portable.

correctly observed, portability of subsidies is essential to avoid "discriminat[ion] among providers of local telecommunications services" that gives incumbent LECs a significant competitive edge over potential competitors, and which thereby deters new entry into local exchange services. NOI, ¶ 79.

If the new universal service support regime is structured as described above -- i.e., portable, explicit and funded in a competitively neutral manner -- NUSF subsidies will provide a source of funding to allow recovery of residential local service costs by all telecommunications services and for the benefit of all customers of that service, thus encouraging local market entry in all geographic areas. Moreover, as described in Part II below, the new system will provide an orderly transition to competitive local service markets, without subjecting subscribers to sudden and significant changes that could jeopardize the goals of universal service -- ensuring availability and affordability of local service to all consumers regardless of location.¹³ The NUSF should be

¹³ Because the possibility of local competition must not be delayed, the Commission should require that all universal service subsidies be removed from access and, until the non-jurisdictional NUSF is implemented, the Commission should set up a competitively neutral interim mechanism to administer existing interstate universal service support flows pending completion of the 15-month proceeding under § 254 of the Act. To ensure competitive neutrality, these interim support flows should be recovered from a surcharge on the retail interstate

implemented on a flash-cut basis to allow these substantial benefits to be realized.¹⁴

II. THE NEW UNIVERSAL SERVICE SUPPORT MECHANISM SHOULD FUND A CORE SET OF QUALITY SERVICES AT REASONABLE COST.

Reasonable limits on the services included in the definition of universal service are needed to maintain "predictability" of the regime (§ 254(b)(5)), to avoid the

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revenues of all telecommunications carriers. The Commission should simultaneously reduce the size of the interim interstate USF by increasing the SLC to recover fully interstate common line costs. All other federal support mechanisms not covered by the increased SLC would be recovered via the interim interstate USF and distributed to whichever LEC or ALEC serves the end user customer. The sole exception to this would be small rural telephone companies, for whom the subsidy would not be portable initially.

If the Commission promptly initiates access reform, then interim universal service support should be funded by the interim interstate retail surcharge described above. If access reform is not immediately forthcoming, contrary to the language and purpose of the Act, then the Commission should at a minimum revise the presubscribed line-based allocator used for the existing USF and Lifeline Assistance Programs. As AT&T has previously shown, a line-based allocator discriminates against low-volume users. Reforming the USF/Lifeline allocator will benefit low-volume consumers by encouraging competition for their traffic. See AT&T's Petition for Rulemaking in CC Docket Nos. 78-72, 80-286, filed November 23, 1993. Similarly, DEM Weighting should also be recovered based on IXC revenues rather than increments to small LECs' traffic-sensitive access rates.

¹⁴ NPRM, ¶ 40. A transition should not be required because the new system will supply the necessary subsidies to achieve these objectives.

ballooning of subsidy costs, or the perception that by subsidizing too many services, the Commission rather than the marketplace is determining the evolution of telecommunications services. Such a perception would seriously erode public support for the program and jeopardize the procompetitive objectives of the Act. Accordingly, all universal service-related subsidies should be limited to funding a core set of essential, high-quality services, necessary to ensure education, public health, and public safety, and funded at reasonable cost.

§ 254(c)(1)(A); NPRM, ¶ 9.

For the present, these core services should include voice grade dial tone, touch tone, residential single party service, access to emergency (911) and operator services, directory information (411), white pages directory listing, local usage in a limited calling area, equal access to long distance services,¹⁵ and local number portability. The subsidy should be available for the primary line to a

¹⁵ Although AT&T believes interexchange services should not be included in the definition of core services entitled to universal service support, to the extent that telecommunications carriers, as a result of rate averaging and integration rules, provide interexchange services that are below cost either to low-income consumers or for calls to or from high cost areas, they should be permitted to recover from the NUSF the difference between the price charged to the end user and the TSLRIC. § 254(g); NPRM, ¶ 55. If access reform is not forthcoming, the NUSF should fund the difference of revenue net of access between rural and urban areas.

subscriber's principal residence, irrespective of the technology (wireline or wireless) employed.¹⁶ With these services, virtually anyone capable of using a telephone can become a full participant in the telephone network.¹⁷ As the Act suggests, the set of services needed to achieve universal service could "evolve" over time. § 254(c)(1). If a service becomes "subscribed to by a substantial majority of residential customers" and contributes to network efficiencies, it could be added to the list of core services. § 254(c)(1)(B). As the language of the Act indicates, the proper course is to let "the operation of

¹⁶ NPRM, ¶¶ 16-23. The subsidy should not apply to other than conventional residential services. NPRM, ¶¶ 50-58. Because payphones are already widely deployed, there is no need to establish community phone banks. Toll restrictions, such as blocking, should not be included in the definition of core services, because they improperly focus on one set of services on which consumers are as (or more) likely to spend beyond their means, while ignoring others (e.g., CLASS services). As a matter of business judgment, reduced deposits should be available to low-income consumers, who voluntarily sign up for toll restrictions because they will then pose a lesser potential credit risk and justify a lower deposit. However, subsidies should not be provided to fund the deposit. Businesses and governmental institutions (other than qualifying schools, libraries, and health care providers who require support for advanced services) should not be entitled to receive any support. NPRM, ¶¶ 24, 26.

¹⁷ Telecommunications Relay Service ("TRS") is also an essential core service. However, because it is already funded in a competitively neutral manner, it need not be included in the NUSF. NPRM, ¶ 17 n.42.

market choices by customers" identify the services that offer these kinds of network benefits.¹⁸ Id.

The Act also directs that services be available at "affordable rates" and that "low-income consumers and those in rural, insular, and high cost areas" be able to obtain service "at rates that are reasonably comparable to [those] charged for similar services in urban areas." §§ 254(b)(1) and (b)(3); NPRM, ¶¶ 14, 25-26. To implement these provisions of the Act, the Joint Board should define (using the process described below and based on data submissions) what constitutes a nationwide "affordable rate" for consumers in all of the areas served by the Tier 1 LECs. To the extent that the TSLRIC of serving a particular area would require a local service rate that exceeds that affordable rate, the LEC or ALEC serving the customer should be able to receive national NUSF subsidy support for the difference (between TSLRIC and the affordable rate).¹⁹ If a

¹⁸ NPRM, ¶¶ 66-70. Periodic review of the definition of "universal service" will, of course, be required and is desirable. However, there is no need, at this time, for the Commission to establish a schedule for revisiting this issue. Rather, reviews should be conducted as marketplace acceptance of new services evolves, which could be determined through industry surveys of services provided to consumers. The Commission's Industry Analysis Division is well-positioned to accomplish this task.

¹⁹ The TSLRIC of a particular serving area can be estimated by a proxy model adopting methodologies similar to those employed by the Benchmark Costing Model ("BCM"). See Appendix A. This model is designed to estimate the cost of providing basic local service using the most efficient

state determines that a higher level of support is warranted within its jurisdiction, it can create a competitively neutral supplemental state-specific support mechanism to fund the additional amount, i.e., the difference between the nationwide affordable rate and the end user rate, under § 254(f) of the Act. Requiring this additional support to be funded from a state-specific mechanism will avoid states creating overly generous subsidy regimes, which could result if a state-determined subsidy were exported through a uniform national surcharge.

In defining what constitutes a nationwide "affordable rate" for consumers in areas served by the

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deployment of the latest technology for each Census Block Group ("CBG") served by a Tier 1 LEC, based on the actual geographic and topographic characteristics of the CBG. The CBGs are aggregated to six population density zones, and the cost of providing basic telephone service for each primary line is then determined for each zone. (These cost differentials, by density zone, should also be reflected in the prices of the underlying network elements available to new entrants, per § 251(c)(3) of the Act, to encourage local market entry in all density zones.) The TSLRIC per line for each density zone can then be compared with the affordable rate. Thus, for each population density zone for which the affordable rate is less than the TSLRIC for the primary line, the model can size the amount of the subsidy, thereby creating a deaveraged subsidy by density zone. The BCM uses a database which assigns each CBG in the United States to a specific LEC wire center, for which customer-specific data exist. This database can then be used to assign a per-line density zone subsidy to individual subscribers within the density zone. See Appendix B for an illustrative example.

Tier 1 LECs, the Joint Board should presume that the current local rate level in each area (including the \$3.50 SLC) is affordable for all subscribers, except those satisfying criteria for low-income assistance. Because, as the Commission has acknowledged, the CCLC is inconsistent with the directives of the 1996 Act, the SLC should be raised to recover fully the subscriber loop portion, or base factor portion, of the interstate common line;²⁰ this will result in a SLC of approximately \$7.00 per subscriber (with offsetting reductions in the access charge component of toll rates). The existing local rate for the group of core services defined above, including the increased SLC, should be deemed "affordable" because the SLC increase will not affect telephone subscribership.²¹ Accordingly, the Joint

²⁰ The Commission requests comments on whether the interstate CCLC should be eliminated or reduced and whether these costs should instead be recovered from end users by increasing the SLC. NPRM, ¶ 113. As shown in Part I, there is a demonstrable need for subsidies to be removed from access and for the CCLC to be eliminated, not the least of which is § 254(k)'s prohibition against carriers using "services that are not competitive to subsidize services that are subject to competition."

²¹ The NPRM (¶ 114) also asks the extent to which an increase in the SLC would reduce telephone subscribership, if at all. A SLC increase should have no impact on subscribership because it will be offset or more by decreases in other costs passed on to end users. Moreover, historical evidence suggests that the initial implementation of the end user SLC did not reduce telephone subscribership. In fact, since the first \$1.00 SLC on each residential and single-line business user was implemented in June 1985, household telephone subscribership has increased from a level of 91.8% to a level of 93.9% as of November 1995 (the most recent

Board should develop the nationwide "affordable" local rate based on a weighted average of current local rates for Tier 1 territories as augmented by the increased SLC.

Low-income consumers would continue to qualify for need-based support from the Lifeline Assistance and Link-Up Programs, which should be funded by the NUSF. Specifically, for a subscriber to qualify for such assistance, the subscriber should be required to meet minimum verifiable eligibility standards established by the state commission for each jurisdiction, to demonstrate that he or she cannot afford to pay the generally affordable local service rate.²² Like reasonable limits on the set of services supported, an appropriate means-testing procedure is also necessary to ensure that the new universal service subsidies do not

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period for which the Commission has reported results). See "Household Telephone Subscribership in the United States," Industry Analysis Division, FCC Common Carrier Bureau, February 1996, p. 5, Table 1.

During the period from June 1985 to April 1989, when the \$1.00 SLC was raised incrementally until the current level of \$3.50 per subscriber was reached, telephone subscriber penetration increased from 91.8% to 93.0%. Id. Given these facts, there is no reason to believe that telephone penetration would not continue to grow if the SLC were increased.

- ²² To ensure that those in need receive assistance, each state should: (1) establish a maximum income threshold that initially determines eligibility, and (2) identify one or more assistance programs (e.g., Food Stamps, Medicaid, SSI, AFDC) in which a subscriber must participate to qualify for assistance.

spiral out of control, and that public support remains strong.

The Tier 1 LECs' traffic-sensitive access charges set at TSLRIC should be used as benchmarks for the access rates of small rural carriers located in the same region. Traffic-sensitive rates for small LECs would be adjusted to the level of the adjacent Tier 1 LECs. To the extent that these new benchmark traffic-sensitive rates coupled with local service revenues (including the increased SLC)²³ are insufficient to cover all of a rural LEC's traffic-sensitive access and basic local service costs (including high cost funds), the remainder should be subsidized directly by the NUSF. These support mechanisms will fully satisfy the principle articulated in § 254(b)(3): that consumers in rural areas "should have access to telecommunications and information services . . . that are reasonably comparable to those services provided in urban areas and that are available at rates that are reasonably comparable to rates charged for similar services in urban areas."

In addition to universal service support for essential services to residential subscribers, the Act provides that qualified schools, libraries and rural health

²³ Each state commission should determine whether local service rates for these small rural LECs should be adjusted to bring them closer to the nationwide affordable local rate determined for the Tier 1 territories.

care providers should have "access to advanced telecommunications services."²⁴ In particular, upon bona fide request, carriers: (1) must provide to eligible schools and libraries a discount off rates charged for similar services to other parties,²⁵ and (2) must provide "telecommunications services" to rural health care providers at rates "reasonably comparable to rates charged for similar services in urban areas in that State."²⁶ Carriers providing these discounted offerings are entitled to reimbursement for the amount of the discount.²⁷

Consistent with the language of the Act and its legislative history,²⁸ the Commission should interpret carriers' obligations to provide their "telecommunications services" at discounted rates, not the premises equipment or inside wire upgrades that may be needed to use those services or the on-line services that a user may choose to

²⁴ § 254(b)(6).

²⁵ § 254(h)(1)(B).

²⁶ § 254(h)(1)(A).

²⁷ §§ 254(h)(1)(A) and (h)(1)(B)(i) and (ii). The Act further specifies that "[t]elecommunications services and network capacity provided to a public institutional telecommunications user under this subsection may not be sold, resold, or otherwise transferred by such user in consideration for money or any other thing of value." § 254(h)(3).

²⁸ See Joint Explanatory Statement of the Committee of Conference, H.R. Conf. Rep. No. 458, 104 Cong. 2d Sess. 113, 133-34 (February 1, 1996).